

**COMMONWEALTH OF MASSACHUSETTS**

**SUFFOLK, ss.**

**Building Code Appeals Board  
Docket No. 05-439**

The Northbridge Companies, LLC,	)	
	)	
Appellant	)	
	)	
v.	)	
	)	
Town of Plymouth,	)	
Appellee	)	
	)	

**BOARD'S RULING ON APPEAL**

**Procedural History**

This matter came before the State Building Code Appeals Board ("Board") on the Appellant's appeal filed pursuant to 780 CMR §122.1. In accordance with 780 CMR §122.3, Appellant asks the Board to interpret 780 CMR §310.1 and to grant variances from 780 CMR §1017.4.1.2 of the Massachusetts State Building Code ("Code"). Appellant is developing "Stafford Hill," which is described as an adaptive reuse of a former nursing home into an assisted living facility ("Project").

By letter issued sometime in June 2007, Paul Vecchi, Building Official for Appellee, denied Appellant's application to change an existing renovations permit for the Project. In denying the application, Mr. Vecchi concluding that 25 studio apartments located on the first floor of the facility should be within Institutional Use Group I-1, rather than Residential Use Group R-2 under 780 CMR § 310.0, as requested in the application to change. In addition, Appellee denied Appellant's request for an exemption from 780 CMR §1017.4.1.2, provisions 4, 5, 6, and 7.

In accordance with G. L. c. 30A, §§10 and 11; G. L. c. 143, §100; 801 CMR §1.02 et. seq.; and 780 CMR §122.3.4, the Board convened a public hearing on July 5, 2007 where all interested parties were provided with an opportunity to testify and present evidence to the Board.

Tom Gaston was present at the hearing on behalf of Appellant. In addition, Gary M. Kane and Chris Chiurri, of The Architectural Team, Inc., were present on behalf of Appellant.

## Reasons for Variance

### *Use Interpretation*

The first issue is whether 25 studio apartments that make up the self-contained, Special Care Unit of the Project should be designated within Residential Use Group R-2 rather than Institutional Use Group I-1. Section 310.1 states:

All structures in which individuals live, or in which sleeping accommodations are provided (with or without dining facilities), excluding those that are classified as institutional occupancies, shall be classified as Use Group R-1, R-2, R-3, R-4 or R-5. The term "Use Group R" shall include Use Groups R-1, R-2 and R-3, R-4 and R-5.

*Note: Assisted Living Residences which are certified as such by the Executive Office of Elder Affairs pursuant to M.G.L. c. 19D shall be classified in the residential use group R-1, R-2, R-3 or R-4 as applicable. Portions of an assisted Living Residence which are used for any use other than residential shall be classified in accordance with the intended use.*

The Board considered the fact that the 25 studio apartments are part of an Assisted Living Facility, as certified by the Executive Office of Elder Affairs under G. L. c. 19D. The Special Care Unit apartments are for persons with mild forms of dementia. All of the other residential units in the Project have been designated within the R-2 Use Group and, as Appellant emphasized, the apartments within the Special Care Unit are not significantly different from other residential units in the Project. The apartments within the Special Care Unit would comply with the Code in other respects except as discussed below.

Based on these circumstances, the Chair entertained a motion that interprets § 310.1 to apply to the residential units within the Special Care Unit of the Project ("Motion One"). Motion One was carried unanimously, as indicated below.

### *Special Locking Arrangements*

The next issue is whether Appellant should receive specific exemptions from provisions 3, 4, 5, 6, and 7 of 780 CMR §1017.4.1.2 in order to install magnetic locks at three perimeter doors that will be the means of egress from the Special Care Unit. Section 1017.4.1.2 states:

In buildings that are equipped throughout with an *automatic sprinkler system* installed in accordance with 780 CMR 906.2.1 or with an automatic fire detection system, doors in a *means of egress*

serving occupancies in Use Group B, E, F, I, M, S or R, shall be unlocked or shall be equipped with approved egress control devices which shall unlock in accordance with items 780 CMR 1017.4.1.2. 1 through 7. A building occupant shall not be required to pass through more than one door equipped with a special locking device before entering an *exit*.

1. Actuation of the *automatic sprinkler system* or automatic fire detection system.
2. Loss of power to the egress control device.
3. Loss of power to the building.
4. Capability of being unlocked manually by a signal from an *emergency control station*.
5. The initiation of an irreversible and automatic process that will release the latch within 15 seconds when a force of not more than 15 pounds (73 N) is applied for one second to the release device and not relock until the door has been opened and returned to the closed position for not less than 30 seconds. Any reopening of the door shall restart the 30-second relocking cycle. Any attempt to *exit* which exceeds one second shall render the door openable. The time delay and the minimum relocking cycle time shall not be field adjustable.

**Exceptions:**

1. An increase in the time delay to 30 seconds shall not be permitted except as approved by the code official.
2. An increase in the relocking cycle time to 45 seconds shall not be permitted except as approved by the code official.
3. *In Use Group B buildings where one tenant occupies the entire floor and the building has a security station staffed 24 hours each day, the installation of a door release device described in 780 CMR 1017.4.1.2, item 5, may be omitted on egress doors in elevator lobbies provided that all other items in 780 CMR 1017.4.1.2 are met, and in addition, the following items are met:*
  - a. *The building is equipped throughout with both a supervised automatic fire sprinkler system and a supervised automatic fire alarm system.*
  - b. *The supervised automatic fire sprinkler system and the supervised fire alarm system shall interface with the access control system to unlock the doors automatically upon activation of either system.*
  - c. *The elevator lobby shall be equipped with a telephone connected directly to the staffed security station and a sign having block letters one inch in height shall be provided directly above the telephone and shall state: "In*

*case of emergency, pick up telephone. You will be connected directly to security personnel".*

6. Initiation of the irreversible process shall activate an audible alarm in the vicinity of the door.

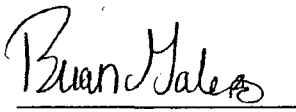
7. A sign having block letters of one inch (25 mm) in height shall be provided on the door above and within 12 inches (305 mm) of the release device stating "Push until alarm sounds. Door can be opened in 15 seconds."


Because the residents of the Special Care Unit will have reduced cognitive abilities, their ability to understand, for example, the directions specified in provision 7 will be limited. However, to comply with Executive Office of Elder Affairs requirements, residents cannot be allowed to wander from a secure area but Appellant is not allowed to use physical restraints on the individual residents. Thus, in order to provide a safe and secure environment, in accordance with Appellant's license from the Executive Office of Elder Affairs, Appellant represented that the doors would be normally locked. They would unlock upon initiation of the fire alarm, loss of power to the device, use of manual key pad, or the activation of a centrally located release switch.

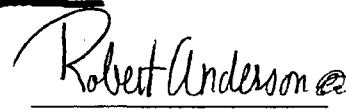
The Chair entertained a motion to allow a variance from §1017.4.1.2 based on the facts that the doors will unlock upon a loss of power or fire alarm activation and that there are staff people at the Special Care Unit on a 24-hour basis to assist residents ("Motion Two"). The Board considered that the Town of Plymouth was not opposed to the variance and the fact that Appellant is working with the Town on suitable evacuation plans.

### Decisions

(1) *Use Interpretation.* Following testimony, and based upon relevant information provided, Board members voted to interpret §310.0 to allow Residential Use Group (R-2) status to the Special Care Unit of the Project, as described on the record. The Board voted as indicated below.

  
Brian Gale

  
Timothy Rodrique - Chair

  
Robert Anderson

(2) *Special Locking Arrangements.* Follow testimony, and based upon relevant information provided, Board members voted two in favor, one opposed, to allow variances from §1017.4.1.2, provisions 3, 4, 5, 6, and 7, as described on the record. The Board voted as indicated below.

[yes] \_\_\_\_\_  
Brian Gale

[no] \_\_\_\_\_  
Timothy Rodrique - Chair

[yes] \_\_\_\_\_  
Robert Anderson

..... Granted

☐ ..... Denied

☐ ..... Rendered Interpretation ☐

**X.....Granted with conditions**

☐ ..... Dismissed

The vote was:

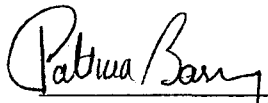
X.....Unanimous

.....X ☐ Majority

Any person aggrieved by a decision of the State Building Code Appeals Board may appeal to a court of competent jurisdiction in accordance with Chapter 30A, Section 14 of the Massachusetts General Laws.

A complete administrative record is on file at the office of the Board of Building Regulations and Standards.

A true copy attest, dated: October 26, 2007

  
Patricia Barry, Clerk

All hearings are audio recorded. The digital recording (which is on file at the office of the Board of Building Regulations and Standards) serves as the official record of the hearing. Copies of the recording are available from the Board for a fee of \$10.00 per copy. Please make requests for copies in writing and attach a check made payable to the Commonwealth of Massachusetts for the appropriate fee. Requests may be addressed to:

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